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TO RUEHC/SECSTATE WASHDC PRIORITY 9866
INFO RUCNCLS/ALL SOUTH AND CENTRAL ASIA COLLECTIVE PRIORITY
RUEHLO/AMEMBASSY LONDON PRIORITY 2213
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C O N F I D E N T I A L SECTION 01 OF 02 DHAKA 000036

SIPDIS

DEPT FOR SCA/INSB

E.O. 12958: DECL: 01/12/2030
TAGS: [PGOV](#) [PINS](#) [PHUM](#) [BG](#)
SUBJECT: RELIGIOUS PARTIES FEAR POSSIBLE GOVERNMENT BAN
FOLLOWING COURT'S CONSTITUTIONAL RULING

DHAKA 00000036 001.2 OF 002

Classified By: Ambassador James F. Moriarty. Reasons: 1.4 (b) and (d)

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Religious Parties Worried Government May Impose Ban

¶5. (C) JI Assistant Secretary General Abdur Razzaque told Polcouns that the Supreme Court's overturning the Fifth Amendment was "self executing" and would result in the reversal of 12 constitutional articles, including the article allowing religion-based political parties. As a result, JI and other religious parties would be forced to dissolve. Razzaque expected the government to freeze religious parties' assets, including trusts, charities, and businesses associated with the parties. Razzaque said if the government bans religious parties it would strengthen the hand of extremist groups that criticized JI for engaging in the political process. He said the only option for the party if it is banned would be to change its name and remove all references to religion.

Background: High Court's Decision

¶6. (SBU) The owner of a movie theater in Dhaka filed a petition with the High Court in 2000 that challenged a martial law order authorizing the transfer of his theater to the Freedom Fighters' Welfare Council. After hearing the case, the court declared the Fifth Amendment unconstitutional and that the transfer order, all other martial law orders and proclamations since August 15, 1975, and the governments in power during the same period were illegal. However, the court also said action the unconstitutional governments took that were normally lawful activities that could have been undertaken by a lawful government might still be deemed valid despite the invalidation of the Fifth Amendment.

Comment

¶7. (C) The High Court decision, which invalidated three governments and all their activities, left many questions

unanswered. Based on the Awami League's commitment to democracy it is virtually unthinkable that the government would attempt to take advantage of the court's decision to revert to formal one-party rule, undermine judicial independence, or limit press freedoms by banning privately owned newspapers and other media. If the Appellate Division rejects the remaining private petitions and upholds the decision, it may provide the Awami League an opportunity to "streamline" the constitution to suit its needs. Meanwhile the JI is clearly worried that it may be facing a permanent ban. Such a ban could strengthen the hands of extremists seeking to promote change outside the political system by forcing elements of Bangladesh's religious parties underground. The JI would most likely change its name and constitution if necessary to remain in the political arena. Still, given the Awami League's record of having introduced a one-party system in the 1970's it should remain wary of giving the opposition an issue that could well mobilize popular opinion against the government.

MORIARTY